

REMARKS

Reconsideration and allowance are respectfully requested in light of the above amendments and the following remarks.

Claims 17, 20-23, and 25-27 have been amended to highlight patentable features of this invention. Support for the amendments is provided in the previous version of claims 17-27. Claims 26 and 27 have been amended to overcome the objections thereto.

Claims 17-27 were rejected, under 35 USC §103(a), as being unpatentable over Parkvall et al. (US 6,542,736) in view of Garceran et al. (US 6,522,888). Claims 17-27 were also rejected, under 35 USC §103(a), as being unpatentable over Parkvall in view of Garceran and further in view of Lee et al. (US 6,690,944). To the extent these rejections may be deemed applicable to the pending claims, the Applicants respectfully traverse.

The Applicants respectfully submit that the applied references fail to teach or suggest the feature recited in claim 19 of estimating the reception quality of a data channel signal, to be received at a communication terminal apparatus, based on information of the reception quality of a control channel signal measured at the communication terminal apparatus and transmit power values of the control channel and the data channel signals sent by a base station apparatus. The claimed invention provides an estimate of the reception quality of a data channel signal to be

received at a communication terminal apparatus before the data channel signal is transmitted.

The Office Action acknowledges that Parkvall does not disclose estimating the expected reception quality of a data channel using transmit power values of a control channel and the data channel signal (Office Action page 8, lines 13-16), but proposes that Garceran discloses this feature in column 3, lines 32-45 (Office Action page 8, lines 16-17).

However, Garceran discloses that a serving base station 56 receives information regarding a forward link's signal quality measurements, such as radio signal strength, bit error rate, or other signal quality measurements, from a wireless unit 54 during a call established between wireless unit 54 and serving base station 56 (Garceran col. 3, lines 32-41). Base station 56 may also measure signal quality information of the reverse link (col. 3, lines 41-45). Garceran further discloses that this received and measured information may be used to determine RF coverage, link frequency, handoff candidates, and signal power(s) (col. 3, lines 46-50).

However, as may be determined from the paraphrased portion of Garceran's disclosure above, Garceran does not disclose using transmit power values of control and data channel signals to estimate the expected reception quality of a data channel, as

proposed in the Office Action. More specifically, Garceran does not suggest using a transmit power value to estimate anything.

Moreover, since Garceran discloses actually measuring the reception quality of the data channel signal, there is no reason to estimate the reception quality of this data channel signal from its measurement, as seemingly proposed in the Office Action.

Lee is applied by the Office Action, in an alternative rejection of claim 19, for teaching a base station that estimates the reception qualities of control and data signals received by the base station. The Applicants respectfully submit that this proposed teaching does not supplement the above-noted deficiencies of Parkvall's and Garceran's disclosures. More specifically, Lee's proposed teaching of a base station that estimates the reception qualities of control and data signals received by the base station does not suggest the subject matter missing from Parkvall's and Garceran's disclosures of using transmit power values of control and data channel signals to estimate the expected reception quality of a data channel.

Accordingly, the Applicants respectfully submit that the individual or combined teachings of the applied references do not anticipate or render obvious the subject matter defined by claim 19. Independent claims 22, 26, and 27 similarly recite the above-discussed feature distinguishing apparatus claim 19 from the

applied references, although claims 26 and 27 do so with respect to methods. Therefore, allowance of claims 19, 22, 26, and 27 and all claims dependent therefrom is warranted.

Amended claim 17 recites using transmit power values assigned to control channel and data channel signals to decide a modulation system and a coding system that can be used for the data channel signal. This feature differs from that discussed above for distinguishing claim 19 from the applied references in that modulation and coding systems are decided, rather than the expected reception quality of a data channel being estimated, using the transmit power values of control and data channel signals. For the reasons discussed in connection with claim 19, the Applicants respectfully submit that the applied references do not teach or suggest using the transmit power values of control and data channel signals for any combined purpose.

Accordingly, the Applicants respectfully submit that the applied references, considered alone or together, do not render obvious the subject matter defined by claim 17. Claims 21, 22, and 25-27 similarly recite the above-mentioned feature distinguishing apparatus claim 17 from the applied references, although claims 25-27 do so with respect to methods. Therefore, allowance of claims 17, 21, 22, and 25-27 and all claims dependent therefrom is warranted.

Regarding the Office Action's proposed motivation for combining the teachings of Parkvall and Garceran, the Applicants respectfully note the following.

The Office Action proposes, with respect to the independent claims, that it would have been obvious to combine the teachings of Parkvall and Garceran because a skilled artisan would be motivated to "modify one or more signal transmission parameters to compensate for channel quality variations" (Office Action page 3, lines 16-19, page 4, lines 17-21, and sentence bridging pages 6 and 7). The Applicants respectfully submit that this proposed motivation is precisely the type of obvious-to-try rationale proscribed by the MPEP in section 2145(X) (B).

Section 2145(X) (B) forbids a rationale, in support of an obviousness rejection, that it would have been obvious to vary numerous parameters or try numerous choices until a successful result was achieved, where the prior art neither identifies the critical parameters nor provides an indication of which choices are likely to be successful. In the present circumstance, the Office Action proposes that it would have been obvious to vary numerous signal transmission parameters, within Parkvall's disclosed system, until channel quality variations were successfully compensated. However, neither the Office Action nor the applied references provide an indication of the critical parameters that must be

varied to achieve the successful compensation. Accordingly, the Office Action's rationale in support of combining the reference teachings is the type precluded by section 2145(X) (B) .

Regarding the Office Action's proposed motivation for combining the teachings of Parkvall, Garceran, and Lee, the Applicants respectfully note the following.

The Office Action proposes that it would have been obvious to combine the teachings of Parkvall, Garceran, and Lee because a skilled artisan would be motivated to "increase flexibility and decrease the required transmit power from the mobile station apparatuses to achieve the same quality of services" (Office Action page 8, lines 1-4, page 8, line 22, through page 9, line 3, and page 10, lines 4-8). This proposed motivation is merely a generalized statement that may be applied to any modification made to a mobile station having variable transmit power. But nothing within the proposed motivation would direct a skilled artisan's attention toward a specific modification of the devices, disclosed in the applied references, that would achieve the structures or methods defined by Applicants' claims.

The Applicants respectfully submit that the Office Action has impermissibly used the hindsight afforded by the Applicants' disclosure to combine the teachings of Parkvall, Garceran, and Lee. The statement of a general motivation to combine reference

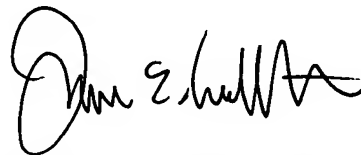
teachings does not offset the hindsight required to suggest their combination.

In accordance with the above discussion, the Applicants submit that the office action has failed to provide cogent motivations for combining the applied teachings of Parkvall and Garceran or Parkvall, Garceran, and Lee. Therefore, allowance of claims 17-27 is warranted for this independent reason.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,



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